

NEW JERSEY BOARD OF PUBLIC UTILITIES

NOTICE OF PUBLIC MEETING ON WORKING DRAFT ELECTRIC RESISTANCE HEATING EQUIPMENT RULES

The Board of Public Utilities is developing new rules that will prohibit the installation of electric resistance space heating equipment in new residential construction in New Jersey. Electric resistance space heating equipment is very energy inefficient and the Board seeks to limit its use in order to conserve energy and help avoid the need for construction of more energy generating plants in New Jersey. The ban on new residential electric resistance space heating equipment would be enforced through denial of a construction permit by the Department of Community Affairs.

At this point, Board staff have developed a working draft of a rule proposal, which has not yet been presented to the Board. Prior to seeking Board approval of the draft rule proposal, Board staff is inviting public input in order to gain a more complete understanding of the issues involved in banning new electric resistance heating equipment, and in order to ensure consideration of the viewpoints of all interested parties in the development of the draft rule proposal. A copy of the working draft rule proposal can be viewed on the Board's website at www.bpu.state.nj.us.

The public meeting is scheduled for:

October 31, 2005
at 9 a.m.
in the Board of Public Utilities Hearing Room
(2 Gateway Center, 8th Floor, Newark, New Jersey)

This meeting is not a formal public hearing. Board staff will not keep a formal record of the proceedings. The meeting's purpose is to inform Board staff and interested parties of the viewpoints of all interested parties regarding how best to accomplish the goals of the draft rules. Board staff will use the ideas brought forward at the meeting in formulating the rule proposal that will ultimately be submitted to the Board for approval. If the Board approves the rule proposal, it will be published in the New Jersey Register, and there will be a 60 day period for additional public comment.

Directions to Board offices can be found on the Board's website at www.bpu.state.nj.us

Persons interested in attending this meeting who require special accommodations because of a disability should contact the Office of the Secretary of the Board at (973) 648-3426 at least three days prior to the meeting date so that appropriate arrangements can be made.

WORKING DRAFT

New Jersey Board of Public Utilities

Electric Resistance Heating Rule Proposal

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SUBCHAPTER 9. Service To Electric Resistance Heating Units

14:5-9.1 Purpose and Scope

(a) This subchapter governs the authority of an electric public utility, as defined at N.J.A.C. 14:5-9.2, to supply electric service to certain residential buildings in New Jersey that are equipped with electric resistance heating units.

(b) This subchapter also requires each electric public utility to notify builders, general contractors, and the relevant municipal officials of the prohibition in this subchapter against the utility serving certain buildings.

14:5-9.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise. Additional definitions that apply to this subchapter can be found at N.J.A.C. 14:3-1.

"Building" means a structure enclosed with exterior walls or fire walls, built, erected and framed of component structural parts, designed for the housing, shelter, enclosure and

support of individuals, animals or property of any kind.

“Electric resistance heating equipment” means heating equipment that produces heat for warming space by forcing electric current through a metal element, and/or passing air over the metal element. This term includes equipment which is required in order to provide such heat. This term also includes any air source heat pump that incorporates electric resistance heating elements. This term does not include small portable plug-in equipment.

“Maintenance” means restoration of a routine or usual nature, which is done by replacing a part of, or putting together, something that is worn or broken, with equivalent materials for the purpose of the safety, healthfulness and upkeep of a mechanism or structure.

“Repair” means the restoration to good or sound condition of materials, systems, and/or components that are worn, deteriorated or broken.

“Residential building” means a building classified as R-2, R-3, R-4 or R-5 under the Uniform Construction Code, Building Subcode, N.J.A.C. 5:23-3.14, and subsequent amendments thereto. As of {effective date of this rule}, the Building Subcode defines R-2 buildings as "residential occupancies containing more than two dwelling units where the occupants are primarily permanent in nature, including: Apartment Houses; Convents; Dormitories; Fraternity and Sorority Houses; Monasteries; Rooming Houses with more than five residents, not having transient occupancy; and Therapeutic Residences with more than 16 residents". As of {effective date of this rule}, the Building Subcode defines R-3 buildings as " Detached one- and two-family dwellings greater than three stories in height, multiple single-family townhouses greater than three stories in height, attached two-family dwellings separated from adjacent units by firewalls, and other single-family dwellings that are outside the scope of the one- and two-family dwelling subcode. " The Subcode defines R-4 buildings as "Therapeutic residences including more than five but not more than 16 occupants, excluding staff, capable of

prompt evacuation as defined by Section 22-1.3 of NFPA 101-97, referenced in Chapter 35." The Building Subcode defines R-5 buildings as "detached one-and two-family dwellings not more than three stories in height and multiple single-family townhouses not more than three stories in height designed and constructed in accordance with the International Residential Code."

14:5-9.3 Prohibition on electric service to certain buildings with electric resistance heat

(a) Except pursuant to an exemption under (b) below, an electric public utility shall not provide electric service to either of the following:

1. A residential building that is equipped with electric resistance heating equipment;
or
2. Any building located on residential property that is equipped with electric resistance heating equipment.

(b) A building described in (a) above shall be exempt from this subchapter if it meets any of the following criteria:

1. A permit was issued for the electric resistance heating equipment prior to {sixty days after the effective date of this rule}; or
2. The building contains electric resistance heating equipment and the equipment requires repair, replacement or maintenance; or
3. The electric resistance heating equipment is a single unit that draws 1600 watts of electricity or less.

14:5-9.4 Enforcement

(a) In accordance with the Uniform Construction Code, N.J.A.C. 5:23, no construction permit shall be issued for any building described at N.J.A.C. 14:5-9.3 if the application includes the use of electric resistance heating equipment.

14:5-9.5 Public notice of prohibition

(a) Each electric public utility shall provide public notice of the limits upon it under this subchapter no later than {30 days after effective date of this rule}, and thereafter with its annual report, required under N.J.A.C. 14:3-6.3.

(b) To fulfill the requirement for public notice at (a) above, each electric public utility shall do both of the following:

1. Publish a newspaper notice in the form provided by the Board. The newspaper notice shall be at least one-quarter page in size and shall be published in at least two daily newspapers of general circulation in the electric public utility's service territory; and
2. Notify those construction companies from which it has received an application for service in the three years previous to the notice, by sending them a copy of this subchapter, accompanied by a cover page in the form provided by the Board.

(c) The Board shall provide a form notice and cover page for use in complying with this section on the Board's web page at www.bpu.state.nj.us.

14:5-9.6 Certification of compliance

(a) With its annual report, required under N.J.A.C. 14:3-6.3, each electric public utility shall furnish to the Board a certification stating that the electric public utility has not provided electric service to any building described at N.J.A.C. 14:5-9.3(a), unless the building is exempt under N.J.A.C. 14:5-9.3(b).

(b) The Board shall provide a form certification and cover page for use in complying with this section on the Board's web page at www.bpu.state.nj.us.

14:5-9.7 Penalties

(a) Failure to comply with any provision of this subchapter shall subject the violator to the following penalties as ordered by the Board after notice and hearing:

1. Financial penalties;
2. Disallowance of recovery of costs in rates;
3. Prohibition on accepting new customers; and
4. Suspension or revocation of any Board-issued franchise.

(b) In determining the appropriate sanction, the Board shall consider the following criteria and any other factors deemed appropriate and material to the electric public utility's failure to comply:

1. The good faith efforts, if any, of the entity charged in attempting to achieve compliance;
2. The gravity of the violation or failure to comply;
3. The number of past violations by the entity charged, including violations of this subchapter as well as other Board rules, orders, or directives; and
4. The appropriateness of the sanction or fine to the size of the company charged.